

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JAMES T MCCARTHY,

Petitioner,

v.

SCOTT FRAUENHEIM, Warden,

Respondent.

Case No. 16-cv-06820-HSG (PR)

**ORDER REGARDING PETITIONER'S
SECOND MOTION FOR STAY AND
ABEYANCE**

Re: Dkt. No. 27


Petitioner's first motion for a stay and abeyance of the instant action pursuant to *Rhines v. Weber*, 544 U.S. 269 (2005), was granted on September 25, 2018. Dkt. No. 26. On September 27, 2018, apparently not having yet received the Court's order, petitioner filed a second motion for stay and abeyance. Dkt. Nos. 27, 28. The second motion for a stay is DENIED as unnecessary.

Petitioner reports that he has now exhausted all claims in the California Supreme Court. As indicated in the September 25, 2018 order, petitioner must now file a motion to reopen the instant action, clearly identifying each claim that has been exhausted in state court. Upon such filing, the case will be reopened, and the Court will schedule further proceedings.

The Clerk is directed to re-send petitioner a copy of the Court's September 25, 2018 order (Dkt. No. 26) and terminate Dkt. No. 27.

IT IS SO ORDERED.

Dated: 10/12/2018


HAYWOOD S. GILLIAM, JR.
United States District Judge